

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SHAWN G. DILLINGHAM,

Plaintiff,

-v.-

Civil Action No.
5:09-cv-236 (GLS/VEB)

MICHAEL J. ASTRUE
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Olinsky, Shurtliff Law Firm
300 S. State Street
5th Floor
Syracuse, New York 13202

JAYA SHURTLIFF, ESQ.

FOR THE DEFENDANT:

Social Security Administration
Office of Regional General Counsel
Region II
26 Federal Plaza - Room 3904
New York, New York 10278

ELLEN E. SOVERN, ESQ.
VERNON NORWOOD, ESQ.

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Victor E. Bianchini, duly filed August 24, 2010. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Victor E. Bianchini filed August 24, 2010 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Plaintiff's motion for judgment on the pleadings is GRANTED, and it is further

ORDERED, that Defendant's motion for judgment on the pleadings is DENIED, and it is further

ORDERED, that the decision of the Commissioner is REVERSED and the case is REMANDED to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the Report-Recommendation, and it is further

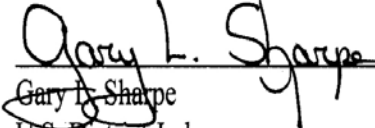
ORDERED, that the Commissioner be ordered to assign a different

ALJ on remand, and it is further

ORDERED, that the Clerk of the Court is to mail copies of the Order to the parties.

IT IS SO ORDERED

Dated: September 30, 2010
Albany, New York



Gary L. Sharpe
U.S. District Judge